

Representative Brad L. Dee proposes the following substitute bill:

PARENT-TIME AMENDMENTS

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brad L. Dee

Senate Sponsor: Michael G. Waddoups

LONG TITLE

General Description:

This bill provides requirements for parent-time when domestic violence is involved.

Highlighted Provisions:

This bill:

- ▶ allows a third party to be utilized to conduct parent-time if a protective order or civil stalking injunction is in place;
- ▶ allows for changes to a parenting plan as needed; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

30-3-10.7, as last amended by Chapter 142, Laws of Utah 2005

30-3-32, as last amended by Chapter 321, Laws of Utah 2004

ENACTS:

30-3-10.10, Utah Code Annotated 1953



Be it enacted by the Legislature of the state of Utah:

Section 1. Section **30-3-10.7** is amended to read:

30-3-10.7. Parenting plan -- Definitions.

(1) "Domestic violence" means the same as in Section 77-36-1.

~~[(1)]~~ (2) "Parenting plan" means a plan for parenting a child, including allocation of parenting functions, which is incorporated in any final decree or decree of modification including an action for dissolution of marriage, annulment, legal separation, or paternity.

~~[(2)]~~ (3) "Parenting functions" means those aspects of the parent-child relationship in which the parent makes decisions and performs functions necessary for the care and growth of the child. Parenting functions include:

(a) maintaining a loving, stable, consistent, and nurturing relationship with the child;

(b) attending to the daily needs of the child, such as feeding, clothing, physical care, grooming, supervision, health care, day care, and engaging in other activities which are appropriate to the developmental level of the child and that are within the social and economic circumstances of the particular family;

(c) attending to adequate education for the child, including remedial or other education essential to the best interest of the child;

(d) assisting the child in developing and maintaining appropriate interpersonal relationships;

(e) exercising appropriate judgment regarding the child's welfare, consistent with the child's developmental level and family social and economic circumstances; and

(f) providing for the financial support of the child.

Section 2. Section **30-3-10.10** is enacted to read:

30-3-10.10. Parenting plan -- Domestic violence.

(1) In any proceeding regarding a parenting plan, the court shall consider evidence of domestic violence, if presented.

(2) If there is a protective order, civil stalking injunction, or the court finds that a parent has committed domestic violence, the court shall consider the impact of domestic violence in awarding parent-time, and make specific findings regarding the award of parent-time.

(3) If the court orders parent-time and a protective order or civil stalking injunction is still in place, it shall consider whether to order the parents to conduct parent-time pick-up and transfer through a third party. The parent who is the stated victim in the order or injunction may submit to the court, and the court shall consider, the name of a person considered suitable to act as the third party.

(4) If the court orders the parents to conduct parent-time through a third-party, the parenting plan shall specify the time, day, place, manner, and the third party to be used to implement the exchange.

Section 3. Section **30-3-32** is amended to read:

30-3-32. Parent-time -- Intent -- Policy -- Definitions.

(1) It is the intent of the Legislature to promote parent-time at a level consistent with all parties' interests.

(2) (a) A court shall consider as primary the safety and well-being of the child and the parent who is the victim of domestic or family violence.

~~[(2)]~~ (b) Absent a showing by a preponderance of evidence of real harm or substantiated potential harm to the child:

~~[(a)]~~ (i) it is in the best interests of the child of divorcing, divorced, or adjudicated parents to have frequent, meaningful, and continuing access to each parent following separation or divorce;

~~[(b)]~~ (ii) each divorcing, separating, or adjudicated parent is entitled to and responsible for frequent, meaningful, and continuing access with his child consistent with the child's best interests; and

~~[(c)]~~ (iii) it is in the best interests of the child to have both parents actively involved in parenting the child.

(c) An order issued by a court pursuant to Title 30, Chapter 6, Cohabitant Abuse Act shall be considered evidence of real harm or substantiated potential harm to the child.

(3) For purposes of Sections 30-3-32 through 30-3-37:

(a) "Child" means the child or children of divorcing, separating, or adjudicated parents.

(b) "Christmas school vacation" means the time period beginning on the evening the child gets out of school for the Christmas or winter school break until the evening before the child returns to school, except for Christmas Eve and Christmas Day.

88 (c) "Extended parent-time" means a period of parent-time other than a weekend,
89 holiday as provided in Subsections 30-3-35(2)(f) and (2)(g), religious holidays as provided in
90 Subsections 30-3-33(3) and (15), and "Christmas school vacation."

91 (d) "Virtual parent-time" means parent-time facilitated by tools such as telephone,
92 email, instant messaging, video conferencing, and other wired or wireless technologies over the
93 Internet or other communication media to supplement in-person visits between a noncustodial
94 parent and a child or between a child and the custodial parent when the child is staying with the
95 noncustodial parent. Virtual parent-time is designed to supplement, not replace, in-person
96 parent-time.

97 (4) If a parent relocates because of an act of domestic violence or family violence by
98 the other parent, the court shall make specific findings and orders with regards to the
99 application of Section 30-3-37.

Fiscal Note
Bill Number HB0124S02

Parent-time Amendments

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State Impact

No fiscal impact.

Individual and Business Impact

No anticipated fiscal impact.

Office of the Legislative Fiscal Analyst